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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/463,740	06/05/95	VON BORSTEL	R 1331-143
		18M2/0802	KUNZ, G EXAMINER
			ART UNIT 3 PAPER NUMBER
			1803
			DATE MAILED: 08/02/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined  Responsive to communication filed on 6/5/95  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1.  Notice of References Cited by Examiner, PTO-892.
2.  Notice of Draftsman's Patent Drawing Review, PTO-948.
3.  Notice of Art Cited by Applicant, PTO-1449.
4.  Notice of Informal Patent Application, PTO-152.
5.  Information on How to Effect Drawing Changes, PTO-1474.
6.

Part II SUMMARY OF ACTION

1.  Claims 41 <sup>15</sup> are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2.  Claims 1-40 AND 42-57 have been cancelled.
3.  Claims \_\_\_\_\_ are allowed.
4.  Claims 41 <sup>15</sup> are rejected.
5.  Claims \_\_\_\_\_ are objected to.
6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.
7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8.  Formal drawings are required in response to this Office action.
9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).
11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).
12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14.  Other

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EXAMINER'S ACTION

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Claim 41 is the sole pending claim. Claims 1 - 40 and 42 - 57 have been canceled.

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 41 is rejected under 35 U.S.C. § 112, first paragraph, as the disclosure is enabling only for claims limited to subject matter for which there is support. See M.P.E.P. §§ 706.03(n) and 706.03(z).

The claim encompasses all "pyrimidine nucleotide precursors" which are not enabled by the specification including such compounds as acylated aspartic acid, carbamoyl phosphate, acylated ATP, etc. as set forth on pages 735 - 736 of Lehninger. The description of said "pyrimidine nucleotide precursors" in the specification included uridine, cytidine, and orotic acid. The claims should be limited to acylated uridine, acylated cytidine, and acylated orotic acid. This is a scope rejection.

Claim 41 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicant regards as the invention.

Claim 41 is rendered vague and indefinite by the phrase "primidine nucleotide precursor". The specification only specifically cites three examples of said precursors: uridine, cytidine, and orotic acid. However, this phrase could conceivably include N-acylated aspartic acid and acetic acid (i.e., an acylated water molecule), and acylated ATP, are of which involved in the production of pyrimidine nucleotides, none of which are cited in the disclosure as sufficient to increase the pool of uridine or cytidine nucleotides.

The claim is not allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kunz, whose telephone number is (703) 308-4623. The examiner can normally be reached on Tuesday through Friday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Robinson, can be reached on (703) 308-2897. The fax phone number for this Group is (703) 305-3230.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

*Gary L. Kunz*  
GARY L. KUNZ  
PATENT EXAMINER  
GROUP 1800

Gary L. Kunz, Ph.D.  
July 29, 1995